IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.686 OF 1989

The State of Maharashtra ...Appellant
Vs.
Smt. Padmabai Jagannath Bhoir ...Respondent

Mr K.K. Tated, A.G.P. for the Appellant.
Mr R.V. Pai for the Respondent.

WITH
FIRST APPEAL NO.1051 OF 1989

Smt. Padmabai Jagannath Bhoir ...Appellant
Vs.
Special Land Acquistion Officer ...Respondent

Mr R.V. Pai for the Appellant.
Mr K.K. Tated, A.G.P. for the Respondent.

CORAM : ABHAY S. OKA, J.
DATE : APRIL 04, 2006.

JUDGMENT:

1. First Appeal No.686 of 1989 is preferred by the State of Maharashtra for taking exception to judgment and award dated 31st August, 1988 passed by the learned Civil Judge, Senior Division at Alibag, District Raigad by which a reference made at the instance of the Respondent under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act of 1894) has been partly allowed. First Appeal No.1051 of 1989 is preferred by the original claimant praying for enhancement in the market value awarded by the Reference Court.

2. The lands which are subject matter of these

Appeals are situated at village Kamothe, Taluka Panvel, District Raigad. The said lands were notified for acquisition under section 4 of the said Act of 1894 issued on 03rd February, 1970. The acquisition of the lands was for the purposes of development of satellite city of New Bombay. The Land Acquisition Officer by the award dated 05th August, 1986 offered to pay compensation at the market value at the rate of Rs.1/- and Rs.2/- per sq.mtr. The claim made by the claimant in response to the notice under section 9 of the said Act of 1894 was Rs.25/- per sq.mtr. The learned Trial Judge has fixed the market value for the part of property at the rate of Rs.14/- per sq.mtr and for remaining part at the rate of Rs.15/- per sq.mtr.

3. Shri Tated, learned A.G.P. appearing for the State Government submitted that considering the evidence on record, the market value fixed by the learned Trial Judge is extremely on the higher side. He has invited my attention to the evidence led by the claimant.

4. Shri Pai, learned Counsel appearing for the original claimant has invited my attention to the decision of the Division Bench of this Court in First Appeal No.754 of 1986 (Nama Padu Hudar & Ors. Vs.

State of Maharashtra) and other connected Appeals. The said decision is dated February 25th and 26th, 1993. The Division Bench dealt with the Appeals arising out of awards made under section 18 of the said Act of 1894 in respect of the lands acquired from villages Panvel and Kamothe from Taluka Panvel, District Raigad. The said lands were also notified for acquisition by notification under section 4 of the said Act of 1894 dated 03rd February, 1970 and acquisition was also for the public purpose of developing satellite city of New Bombay. After considering the location of various lands in the said villages, the Division Bench categorised various lands into five categories depending upon the location of land with reference to highway and with reference to the Zilla Parishad Road. Shri Pai invited my attention to the decision of the Apex Court in the case of Shantadevi Ruparel Vs. Special Land Acquisition Officer dated 06th March, 2006 in Civil Appeal No.1557 of 2006. He pointed out that method adopted by the Division Bench of this Court in the said case of Nama Padu Hudar has been expressly approved by the Apex Court. He, therefore, submitted that the claimant is entitled to enhancement in the market value.

5. I have considered the submissions. It is not in dispute that decision of the Division Bench in the case of Nama Hudar(Supra) has attained finality. It is not in dispute that vast portions of land from villages Panvel and Kamothe were notified for acquisition on 03th February, 1970 for the same public purpose. The decision of the Division Bench shows that all aspects regarding location of the villages and the nature of the lands in the said villages have been considered. The decision of the Division Bench of this Court is certainly relevant for deciding the market value in the present case. Decision of the Division Bench shows that category IVA was in respect of lands which were located at the distance of 800 to 2200 mtrs. from Mumbai-Pune highway and category IVB was in respect of the lands situated at the distance of 200 mtrs. from Zilla Parishad Road. The Division Bench awarded market value at the rate of Rs.20/- per sq. mtr. to the lands falling in the said two categories. In the present case, the evidence on record shows that acquired lands fall in category IVB. As the method adopted by the Division Bench of this Court has been approved by the Apex Court in the case of Shantadevi (Supra) it is obvious that the original claimant is entitled to market value at the rate of Rs.20/- per sq. mtr. which is the minimum market

value fixed for the villages Panvel and Kamothe by the said decision of the Division Bench.

6. Hence, the Appeal preferred by the State Government will have to be dismissed and the Appeal preferred by the claimant will have to be partly allowed. Hence, I pass the following order:

(i) First Appeal No.686 of 1989 is dismissed. The Appellant-State will pay costs of the costs of the Appeal to the Respondent.

(ii) First Appeal No.1051 of 1989 is partly allowed. The Judgment and Award made by the Trial Court is amended by directing that the claimant will be entitled to market value at the rate of Rs.20/- per sq.mtr. together with all statutory benefits as awarded by the impugned Judgment and Award. The claimant will be also entitled to the proportionate costs of the Reference proceedings.

(iii) The Reference Court will make necessary calculations as regards the amount payable to the claimant within a period of four months from the date of receipt of this order.

(iv) The Appellant will be entitled to the proportionate costs of the First Appeal No.1051 of 1989 from the Respondent.

JUDGE